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| 08/479,810      | 06/07/1995  | JOHANNES G. BEDNORZ  | YOR919870074US5     | 8594             |

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| EXAMINER |
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KOPEC, MARK T

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE  
BOARD OF PATENT APPEALS AND INTERFERENCES

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*Ex parte* Johannes G. Bednorz and Carl A. Mueller

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Appeal 2009-003320  
Application 08/479,810  
Technology Center 1700

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Mailed: May 11, 2010

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DECISION ON PETITION

This is a decision on the "Request to Reopen Prosecution Under 37 C.F.R. § 41.50(a)(2)(i) or 37 C.F.R. § 41.50(b)(2)," filed November 17, 2009 ("Petition"). This Request will be treated as a Petition to the Chief Administrative Patent Judge under 37 C.F.R. § 41.3(a).

FINDINGS

1. On September 17, 2009, a Decision on Appeal was entered affirming and reversing rejections of the Examiner under 35 U.S.C. § 112, ¶ 1 for lack of enablement.
2. Under 37 C.F.R. § 41.50(a)(2)(i), a request to reopen prosecution is permitted if a supplemental examiner's answer is written in response to a

remand by the Board of Patent Appeals and Interferences ("Board") for further consideration of a rejection.

3. The Decision on Appeal does not include a remand under 37 C.F.R. § 41.50(a)(1) for further consideration of a rejection, and no supplemental examiner's answer has been entered.
4. Under 37 C.F.R. § 41.50(b)(1), a request to reopen prosecution also is permitted in response to a new ground of rejection entered by the Board.
5. The Decision on Appeal does not include a new ground of rejection under 37 C.F.R. § 41.50(b).
6. A decision on appeal by a panel of the Board is a final agency action on the appealed claims (*see* 37 C.F.R. § 41.2) subject to revision only upon reconsideration in response to a request for rehearing. *See* 37 C.F.R. § 41.52.

#### DISCUSSION

As indicated, in the present posture of this appeal, no basis exists under applicable rules for reopening prosecution.

#### DECISION

In view of the foregoing, the Petition is DENIED.



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Michael R. Fleming  
Chief Administrative Patent Judge

Appeal 2009-003320  
Application 08/479,810

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